

REMARKS

The Office Action dated April 10, 2007, has been received and carefully considered. Claims 1-21 are pending in the application, with claims 1, 10, 20, and 21 being the independent claims. Claims 1-10 and 15 are amended by this response. Applicant believes that the application is in condition for allowance and notice thereof is respectfully requested.

Interview Summary

Applicants the Examiner and Supervisory Patent Examiner Robert Pezzuto for conducting the personal interview conducted on October 3, 2007. During the interview, amendments to the claims, as presented in this response, were discussed. The Examiner and SPE agreed that these amendments distinguish the claims from the cited art and likely render the claims allowable.

Pending Objection

The Office Action objects to claims 15-16 for being dependent upon a rejected base claim. Applicant thanks the Office Action for providing notification of allowable subject matter. In view of the amendments to the claims, the objection to claims 15-16 is moot. Accordingly, Applicant respectfully requests that the objection to claims 15-16 be withdrawn.

Pending Rejections

Claims 1 and 15-16 stand rejected under 35 U.S.C. § 112, ¶ 2, as allegedly being indefinite for failing to distinctly claim what Applicant regards as the invention.

Claims 1, 3, and 5-6 stand rejected under 35 U.S.C. § 102(b) as being allegedly anticipated by U.S. Patent 5,114,155 to Tillery *et al.* ("Tillery").

Claims 1, 3, and 5-6 stand rejected under 35 U.S.C. § 102(b) as being allegedly anticipated by U.S. Patent 5,593,349 to Miguel *et al.* ("Miguel").

Claims 1, 3, and 5 stand rejected under 35 U.S.C. § 102(b) as being allegedly anticipated by U.S. Patent 5,489,886 to Wexler *et al.* (“Wexler”).

Claim 8 stands rejected under 35 U.S.C. § 103(a) as being allegedly unpatentable over Tillery.

Claims 8-9 stand rejected under 35 U.S.C. § 103(a) as being allegedly unpatentable over Miguel.

Claims 4 and 7 stand rejected under 35 U.S.C. § 103(a) as being allegedly unpatentable over Wexler in view of U.S. Patent 5,294,912 to Bednarz *et al.* (“Bednarz”).

Claims 10-14 and 17 stand rejected under 35 U.S.C. § 103(a) as being allegedly unpatentable over Wexler.

Response to Claim Rejections Based on 35 U.S.C. § 112, ¶ 2

Claims 1 and 15-16 were rejected under 35 U.S.C. § 112, ¶ 2 as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. To the extent this rejection applies to the pending claims, Applicant respectfully traverses the rejection and requests reconsideration thereof for reasons set forth below.

Regarding independent claim 1, the Office Action asserts that “it is unclear as to whether or not the applicant is claiming one amusement machine (‘an amusement machine’) or a plurality of amusement machines (‘players using the amusement machines’).” Applicant has amended claim 1 to recite “one or more amusement machines.” Therefore, Applicant respectfully submits that the rejection to claim 1 under 35 U.S.C. § 112, ¶ 2 is moot. Accordingly, Applicant respectfully requests that the rejection of claim 1 under 35 U.S.C. § 112, ¶ 2 be withdrawn.

In addition, Applicant respectfully submits that the rejection to claims 15-16 under 35 U.S.C. § 112, ¶ 2 is moot as well in light of the amendments to the claims. Accordingly, Applicant respectfully requests that the rejection of claims 15-16 under 35 U.S.C. § 112, ¶ 2 be withdrawn.

Response to Rejections Based on 35 U.S.C. § 102(b)

The Office Action rejects claims 1, 3, and 5-6 under 35 U.S.C. § 102(b) as allegedly being anticipated by U.S. Patent 5,114,155 to Tillery *et al.* (“Tillery”). To the extent this rejection applies to the pending claims, Applicant respectfully traverses the rejection and requests reconsideration thereof for at least the reasons set forth below.

“A claim is anticipated **only if each and every element as set forth in the claim** is found, either expressly or inherently described, in a single prior art reference. *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).” M.P.E.P. § 2131 (2006).

Applicant respectfully submits that Tillery does not anticipate claims 1, 3, and 5-6 because Tillery fails to disclose each and every element set forth in those claims. Tillery is directed to “collection and distribution of data from remotely located electronic dart games.” *See* Tillery col. 1, ll. 13-15. More specifically, Tillery provides a method and apparatus for “conducting dart leagues or tournaments wherein players participate at multiple remote locations.” Tillery, Abstract.

In contrast, the system of amended claim 1 recites, “at least one camera to capture the conduct of play” Tillery does not disclose the recited “at least one camera.” Therefore, Tillery fails to disclose each and every element of independent claim 1. Claims 3 and 5-6 are allowable

at least as being dependent from allowable claim 1. Accordingly, Applicant respectfully requests that the rejection of claims 1, 3, and 5-6 under 35 U.S.C. § 102(b) be withdrawn.

The Office Action rejects claims 1, 3, and 5-6 under 35 U.S.C. § 102(b) as allegedly being anticipated by U.S. Patent 5,593,349 to Miguel *et al.* (“Miguel”). To the extent this rejection applies to the pending claims, Applicant respectfully traverses the rejection and requests reconsideration thereof for at least the reasons set forth below.

Applicant respectfully submits that Miguel does not anticipate claims 1, 3, and 5-6 because Miguel fails to disclose each and every element set forth in those claims. Miguel is directed to “a league and tournament system.” *See* Miguel, Abstract. More specifically, Miguel provides “a league and tournament system ... which includes a centralized league machine that transmits data to one or more of a plurality of electronic dart games via modem or using a wireless portable data storage device.” *Id.*

Similar to Tillery, Miguel fails to disclose “at least one camera to capture the conduct of play.” At most, Miguel discloses a league machine that has the complete list for a particular league of the teams, players, player handicaps, type of game played for that league, game options, player rotation order, and any other data relevant to league or tournament play. *See* Miguel, col. 6, ll. 18-24. Therefore, Miguel fails to disclose each and every element of independent claim 1. Claims 3 and 5-6 are allowable at least as being dependent from allowable claim 1. Accordingly, Applicant respectfully requests that the rejection of claim 1 under 35 U.S.C. § 102(b) be withdrawn.

Claims 1-3 and 5 were rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by U.S. Patent 5,489,886 to Wexler *et al.* (“Wexler”). To the extent this rejection applies to the

pending claims, Applicant respectfully traverses the rejection and requests reconsideration thereof for at least the reasons set forth below.

Applicant respectfully submits that Wexler does not anticipate claims 1-3 and 5 because Wexler fails to disclose each and every element set forth in those claims. Wexler is directed to “an automatic line officiating system.” *See* Wexler, Abstract. More specifically, Wexler provides an “automatic line officiating system including a video camera and associated optics and electronics....” *Id.*

In contrast, the system of amended claim 1 recites “a remote monitoring or refereeing system for one or more amusement machines comprising ... *one or more dart machines....*” Wexler does not disclose a “one or more dart machines.” In fact, Wexler does not disclose a dart machine at all. Wexler is directed to referring a game at one location, as opposed to one or more amusement machines at remote locations as presently claimed. Therefore, Wexler fails to disclose each and every element of independent claim 1. Accordingly, Applicant respectfully requests that the rejection of claim 1 under 35 U.S.C. § 102(b) be withdrawn.

Dependent claims 2-3 and 5-6 depend from independent claim 1. Applicant respectfully submits that the rejection of dependent claims 2-3 and 5-6 under 35 U.S.C. § 102(b) should be withdrawn for at least those reasons.

In view of the foregoing, Applicant respectfully submits that claim 1 is not anticipated by Tillery, Miguel, or Wexler, as every element set forth in the claim cannot be found in Tillery, Miguel, or Wexler. Therefore, Applicant respectfully requests that the rejection of claims 1-3 and 5-6 under 35 U.S.C. § 102(b) be withdrawn. Accordingly, Applicant respectfully requests that independent claim 1 and dependent claims 2-3 and 5-6 be allowed.

Response to Rejections Based on 35 U.S.C. § 103(a)

The Office Action rejects dependent claim 8 under 35 U.S.C. § 103(a) as being allegedly unpatentable over Tillery. “To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations.” M.P.E.P. § 2143.03 (2006).

“If an independent claim is nonobvious under 35 U.S.C. § 103, then any claim depending therefrom is nonobvious. *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988).” M.P.E.P. § 2143.03 (2006). The Office Action rejected independent claim 1 under 35 U.S.C. § 102(b). The Office Action did not reject independent claim 1 under 35 U.S.C. § 103. The Applicant respectfully submits that the 35 U.S.C. § 102(b) rejection to claim 1 should be withdrawn as shown above. Therefore, the rejection of dependent claim 8 under 35 U.S.C. § 103 with regard to the Tillery patent should also be withdrawn.

The Office Action rejects dependent claims 8-9 under 35 U.S.C. § 103(a) as being allegedly unpatentable over Miguel. The Office Action rejected independent claim 1 under 35 U.S.C. § 102(b). The Office Action did not reject independent claim 1 under 35 U.S.C. § 103. The Applicant respectfully submits that the 35 U.S.C. § 102(b) rejection to claim 1 should be withdrawn as shown above. Therefore, the rejection of dependent claims 8-9 under 35 U.S.C. § 103 with regard to the Miguel patent should also be withdrawn.

The Office Action rejects dependent claims 4 and 7 under 35 U.S.C. § 103(a) as being allegedly unpatentable over Wexler in view of Bednarz *et al.* (“Bednarz”). The Office Action

rejected independent claim 1 under 35 U.S.C. § 102(b). The Office Action did not reject independent claim 1 under 35 U.S.C. § 103. The Applicant respectfully submits that the 35 U.S.C. § 102(b) rejection to claim 1 should be withdrawn as shown above. Therefore, the rejection of dependent claims 4 and 7 under 35 U.S.C. § 103 with regard to the Wexler patent in view of Bednarz should also be withdrawn.

The Office Action rejects claims 10-14 and 17 under 35 U.S.C. § 103(a) as being allegedly unpatentable over Miguel. The Office Action then puts forth assertions in light of Wexler. *See* Office Action, page 7. The Applicant understands this to be an error on the part of the Office Action. Therefore, the Applicant will address the Office Actions assertions with respect to Wexler.

As acknowledged by the Office Action, Wexler does not disclose each and every element of independent claim 10. *Id.* Accordingly, the Office Action acknowledges that the limitation of “a plurality of dart machines communicating over a network” is not disclosed. *Id.* In an attempt to cover this limitation, the Office Action asserts that “it is well known in the art at the time the invention was made to network a plurality of amusement machines.”

It is never appropriate to rely solely on “common knowledge” in the art without evidentiary support in the record, as the principal evidence upon which a rejection was based. *Zurko*, 258 F.3d at 1385, 59 USPQ2d at 1697 (“[T]he Board cannot simply reach conclusions based on its own understanding or experience-or on its assessment of what would be basic knowledge or common sense. Rather, the Board must point to some concrete evidence in the record in support of these findings.”); MPEP 2144.03 (emphasis added).

The Office Action does not provide the proper motivation to modify Miguel. Significantly, it has been judicially held that generalizations do not establish the requisite

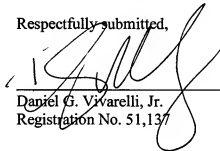
motivation to modify a specific reference in a specific manner to arrive at a specifically claimed invention. See *In re Deuel*, 51 F.3d 1552, 34 USPQ2d 1410 (Fed. Cir. 1995). In discussing the steps that the Office Action takes Official Notice for, the Office Action asserts that “it is well known in the art at the time the invention was made to network a plurality of amusement machines” Such conclusory statements are inappropriate without the Office Action providing specific factual findings predicated on sound technical and scientific reasoning to support the Office Action’s conclusory statements. The Office Action is relying on conclusory statements and has not provided proper motivation to modify Miguel, thus the Office Action has not met his burden of establishing a *prima facie* case of obviousness. Therefore, the rejection of independent claim 10 and all claims that depend thereon under 35 U.S.C. § 103 with regard to the Miguel patent should be withdrawn.

CONCLUSION

It is respectfully submitted that this application and all pending claims are in condition for allowance and such disposition is earnestly solicited. If the Examiner believes that a telephone conference or interview would advance prosecution of this application in any manner, the Examiner is requested to contact the undersigned attorney.

It is believed that no additional fees are due in connection with filing this amendment. However, the Commissioner is hereby authorized to treat any current or future reply, requiring a petition for an extension of time for its timely submission as incorporating a petition for extension of time for the appropriate length of time. Applicants also authorize the Commissioner to charge any additional fees to the undersigned's Deposit Account 50-0206.

Respectfully submitted,



Daniel G. Vivarelli, Jr.
Registration No. 51,137

Hunton & Williams LLP
1900 K Street, NW
Washington, D.C. 20006-1109
(202) 955-1500

Date: October 9, 2007